

### **REMARKS**

Applicants appreciate the consideration of the present application afforded by the Examiner. Claims 1-41 were pending prior to the Office Action. Claim 12 has been canceled and claims 42-44 have been added through this Reply. Therefore, claims 1-11 and 13-44 are pending. Claims 1, 4, 18, 29-30, and 41 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

#### ***Interview Summary***

Applicants appreciate the time afforded by the Examiner and her supervisor in conducting the Interview on November 17, 2008. During the Interview, Applicants counsel discussed the Examiner's interpretations of the references with the Examiner and her supervisor. No specific agreement was reached with respect to the claims.

#### ***Objection to the Specification***

The specification is objected to for minor informalities. *See Office Action, page 3, item 3.* The specification has been amended to address this objection. Applicants respectfully request that the objection to the specification be withdrawn.

#### ***Drawings***

The drawings are objected to for allegedly failing to show every features of the invention specified in the claims. *See Office Action, page 2, item 2.* Applicants respectfully traverse.

The feature of reproduction time units arranged along the times series of the time for reproduction is clearly show in Figure 19 (see also Figures 4A, 4B, and 5). The feature of the priority ordering of the reproduction modes and objects is clearly shown in Figure 20 (see also specification, paragraph [0123]). Figures 24 and 25 show the features regarding switching of reproduction modes when a portion is not appropriately reproduced in a particular reproduction mode.

Applicants respectfully request that the objection to the drawings be withdrawn.

***Claim Rejections - 35 U.S.C. §101***

Claims 18-41 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants traverse the rejection.

Independent claim 18 clearly recites a contents identification method for identifying the reproduction mode for reproducing contents in a reproduction apparatus based on recognized attributes of object data including in the content data, by which contents are enabled to be reproduced in a reproduction apparatus. Independent claim 29 clearly recites a contents reproduction method for reproducing contents in a reproduction apparatus, whereby a reproduction mode of the reproduction apparatus is switched on the basis of information concerning said reproduction mode that has been added to said contents data. Applicants respectfully submit that these claims recite statutory subject matter at least as they are tied to a reproduction apparatus for reproducing the contents.

Claims 30-41 have been amended to recite a computer readable medium storing a program for instructing a computer to perform the methods recited therein. Applicants submit that these claims recite statutory subject matter.

Applicants respectfully request that the §101 rejection of claims 18-41 be withdrawn.

***35 U.S.C. § 112, 2nd Paragraph Rejection***

Claims 1-41 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Although Applicants do not necessarily agree with the Examiner's assertion of indefiniteness, Applicants have made amendments to the claims to address the alleged antecedent basis issues asserted in the Office Action. Additionally, claims 14 and 15 have been amended to address the allegations of indefiniteness. Applicants respectfully request that the §112, second paragraph rejection of claims 1-41 be withdrawn.

***Claim Rejections - 35 U.S.C. §§102 / 103***

Claims 1-8, 12-20, 22-25, 29-32, 34-37, and 41 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,640,171 to Shimada ("Shimada"). Applicants submit the Examiner has failed to establish a *prima facie* case of anticipation and traverse the

rejection. Claims 9-11, 21, 26-28, 33, and 38-40 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Shimada in view of U.S. Patent No. 6,798,406 to Jones et al. ("Jones"). Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. §102, the cited reference must teach or suggest each and every element in the claims. See *M.P.E.P.* §2131; *M.P.E.P.* §706.02. Accordingly, if the cited reference fails to teach or suggest one or more claimed elements, the rejection is improper and must be withdrawn.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P.* 2142. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P.* 2142; *M.P.E.P.* 706.02(j). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Independent **claim 1** recites, *inter alia*, a contents reproduction apparatus comprising:

a contents reproduction part which can reproduce contents from contents data in a plurality of reproduction modes including two-dimensional and three-dimensional display, wherein the contents data comprises at least object data of an object in the contents;

a recognition part which recognizes attributes of the object included in the contents by analyzing the object data associated with the object;

a determination part that determines the reproduction mode in which to reproduce the contents on the basis of the attributes of the object that have been recognized in said recognition part, and further on the basis of one or more predetermined conditions for content reproduction; and

a control part which controls switching between said plurality of reproduction modes on the basis of said reproduction mode that has been determined in said determination part, wherein

said contents reproduction part reproduces said contents in said reproduction mode that has been switched to by said control part.

Shimada is directed to an image display system which is capable of switching between two-dimensional and three-dimensional display modes. Shimada discloses performing image processing on the image signals for different image qualities (e.g., contrast, brightness, and

gamma correction) based on which display mode is selected. *See Figures 1 and 3; col. 1, line 45 - col. 2, line 11.* For example, a display mode switching circuit (4) controls an adjusting value switching circuit (3) to supply the image processing circuit (2) with a different voltage based on which display mode is currently enabled. *See col. 3, line 61 - col. 4, line 67.* These different voltages correspond to different image processing to be performed for the aforementioned image qualities.

Shimada suggests that the display mode signals may be automatically output according to a signal on the image software identifying either standard 2D display or stereoscopic 3D display. *See col. 6, lines 15-21.* The Examiner is apparently relying upon this citation to cover at least the recognition part, determination part, and control part of independent claim 1. *See Office Action, pages 11-12.*

However, a suggestion of automatically outputting a display mode signal cannot anticipate recognizing attributes of an object included in the contents and determining a reproduction mode in which to reproduce the contents on the basis of the attributes of the object, as claimed. Shimada does not disclose that the automatically output display mode signal indicates two-dimensional or stereoscopic display based on any attributes of the image data itself. Additionally, Shimada does not disclose any step whereby attributes of object data within the contents are analyzed in order to determine the reproduction mode of the contents. Accordingly, Shimada cannot anticipate all of the features of independent claim 1.

Independent **claim 4** recites, *inter alia*, “an acquisition part which acquires information concerning the reproduction mode of said contents from at least the object data in said contents data; a determination part that determines the reproduction mode in which to reproduce said contents on the basis of said information concerning the reproduction mode of said contents that has been acquired by said acquisition part.” Although Shimada suggests automatically outputting a display mode signal, Shimada fails to disclose determining a reproduction mode of the contents based on information that has been acquired from object data corresponding to an object included in the contents data. Accordingly, Shimada cannot anticipate all of the features of independent claim 4.

Independent **claim 18** recites, *inter alia*, “a recognition step of recognizing attributes of said object included in the contents by analyzing the object data associated with the object; and a determination step of determining said reproduction mode in which to reproduce the contents on the basis of the recognized attributes of the object.” As previously discussed with respect to claim 1, Applicants submit that Shimada fails to disclose analyzing attributes of object data within the contents in order to determine the reproduction mode of the contents. Accordingly, Shimada cannot anticipate all of the features of independent claim 18.

Independent **claim 29** recites, *inter alia*, “a switching step of switching the reproduction mode of the reproduction apparatus for reproducing said contents on the basis of said information concerning said reproduction mode that has been added to said contents data, wherein said information is based on attributes of the object data in the contents.” As previously discussed with respect to claim 4, Applicants submit that Shimada fails to disclose reproducing contents based on information based on attributes of object data within the contents. Accordingly, Shimada cannot anticipate all of the features of independent claim 29.

Independent **claim 30** recites, *inter alia*, “an identification step of identifying the attributes of said object included in the contents by analyzing the object data associated with the object; and a determination step of determining said reproduction mode in which to reproduce the contents on the basis of the identified attributes of the object and one or more predetermined conditions for contents reproduction.” As previously discussed with respect to claim 1, Applicants submit that Shimada fails to disclose analyzing attributes of object data within the contents in order to determine the reproduction mode of the contents. Accordingly, Shimada cannot anticipate all of the features of independent claim 30.

Independent **claim 41** recites, *inter alia*, “a switching step of switching the reproduction mode of the reproduction apparatus for reproducing said contents on the basis of said information concerning said reproduction mode that has been added to said contents data, wherein said information is based on attributes of the object data in the contents.” As previously discussed with respect to claim 4, Applicants submit that Shimada fails to disclose reproducing contents based on information based on attributes of object data within the contents. Accordingly, Shimada cannot anticipate all of the features of independent claim 41.

Therefore, at least because Shimada fails to teach or suggest each and every claimed element, independent claims 1, 4, 18, 29, 30, and 41 are distinguishable from the prior art.

Dependent claims 2-3, 5-11, 13-17, 19-28, and 31-40 are also distinguishable from the prior art at least due to their dependence from claims 1, 4, 18, and 30, directly or indirectly.

Additionally, the Jones reference does not and cannot cure the above deficiencies of Shimada. Jones discloses a method by which a stereo image is created based upon a maximum perceived depth of the image on a display in order to provide comfortable viewing to the user. *See Abstract*. Jones is relied upon by the Examiner to allegedly disclose that objects rendered in three-dimensional display are rendered based upon their depth information, and that this implies a priority which determines a reproduction mode for the objects. In 3-D imaging, objects with a depth deeper than an arbitrary zero disparity plane are rendered to be perceived as further from the viewer; objects with a depth shallower than the zero disparity plane are rendered to be perceived as closer to the viewer. The Examiner asserts that if all the objects in the stereoscopic image happen to have a depth corresponding to the zero disparity plane, then the image would be two dimensional. *See Office Action, page 27, lines 15-20*. Applicants disagree. Although the objects in the image would all lie at the same plane, the image is still being rendered in three-dimensions in a three-dimensional display mode. Again, the zero disparity plane is arbitrary and represents a particular depth within a 3-D display. Jones is expressly directed to such a three-dimensional display and does not teach or suggest switching a reproduction mode based upon recognized attributes of objects within the contents. Furthermore, the depth data of the objects in Jones is used to determine where in three-dimensions the object is to be displayed, but Jones does not teach or suggest that this depth data in any way influences a reproduction mode. The Examiner alleges that the depth equates to a “priority” which determines the reproduction mode of the object. Again, Jones is silent with respect to determining a reproduction mode and is expressly disclosed as rendering three-dimensional images.

Accordingly, Applicant respectfully requests that the rejection of said claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) be withdrawn.

***New Claims***

New claims 42-44 have been added through this Amendment, and are considered to be in condition for allowance at least due to their dependence upon independent claim 1. No new matter has been entered.

**CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John R. Sanders Reg. No. 60,166 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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Attachments: Substitute Abstract